Legal Policy Advisory Group Meeting
February 27, 2013 11:00-12:30p

Name	Organization
Claudia Boldman	Information Technology Division
JoAnn Buckland	EOHHS Legal – Covering for Kathleen Snyder
Gillian Haney	MA Department of Public Health
Paul Jeffrey	MassHealth
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Summary of Input and Feedback from the Legal and Policy Advisory Group

- The Mass HIway should be aware that there may be multiple processes emerging among community and statewide HIE efforts
- The Mass HIway should try to remove barriers to receiving patient demographic data - There are complexities that can hinder progress such as determining if and how consent may apply to demographic information
  - The Commonwealth could invoke its public health powers and require providers to send demographic data (This is consistent with State of Maryland's policies)
  - Similarly, submission of demographic information could be mandated by MassHealth

Review of Materials and Discussion

- The group was welcomed back from a brief meeting hiatus and reviewed the distributed materials for the Advisory Group kickoff.
- The changes for 2013, under the MA Law Chapter 224, were reviewed and the structure detail of the new HIT Council and the Advisory Groups was discussed. (Slides 2-4)
  - The Advisory Groups will mirror the structure of Federal Advisory Committees and will focus on targeted issue areas. Existing volunteers from previous workgroups have been invited to participate in the Advisory Groups; membership is fluid and recruiting additional members was encouraged.
  - The purpose and objectives of the new Advisory Group will provide advice and expert opinion to the HIT Council
- The group reviewed the HIway phasing and strategy. (Slides 6-8)

- Phase 1: Send and Receive – live since October 2012, allows the HIway to be available to all health care organizations in the State regardless of the technology in their respective offices. Phase 1 stood up the initial provider directory and associated technical components for participating organizations to send and receive messages. EOHHS and the Last Mile Program will focus on HIway operations and deployment of the HIway to health care organizations.
- Phase 2: Search and Retrieve – creating the capability for cross-institutional queries and retrieval of patient records. Phase 2 requires detailed planning and will be the focus of this Advisory Group.
- Question: Out of the 9 organizations that sent transactions during the Golden Spike event, were all of the participants treatment organizations?
    - Answer: No, there was one payer organization who participated (Network Health).
- Comment: In response to a specific patient query through the HIway, an EHR system generates a CDA containing the clinical data pertaining to the patient's record. Certified EHRs are required to generate a CDA, but it's noted that even CDAs are different between different EHR systems. It was noted as a curiosity that payloads from a query/retrieve are specific to formatted data, where an email could contain any sort of medical record detail.
- Comment: Standards are great and everyone has [a different] one.
- Question: Will phase 2 participants also require a new participation agreement that this AG needs to address?
    - Answer: Yes, a new participation agreement will need to be addressed by this Advisory Group.

- The three methods to connect to the Mass HIway were reviewed with a highlight to the additional features of Phase 2 added to the HIway service options. The group was reminded that Phase 2 services are not a requirement for participation in the Mass HIway. While there is an additional fee for HIway Phase 2 services, the features and functions of Phase 2 will benefit any organization in their healthcare operations. (Slide 10)
- The group discussed the components of the HIway Phase 2. (Slide 11)
    - The Master Person Index (MPI) offers probabilistic patient matching, direct matches only, utilizing the Orion Initiate system. "Wildcard" or "fishing" searches will not be allowed.
    - The Consent database is actually part of the Master Person Index (MPI) but is depicted separately for discussion purposes. A patient consent is captured at the organization level and the consent status is sent to the Mass HIway.
        - Most EHR (electronic health record) systems are not sophisticated in their ability to capture and react to patient consent. EHRs are limited in consent capture; it's a 'yes' or 'no' only without restrictions about what data will be shared by the EHR. Consent will be a topic for a future Advisory Group meeting.

- The Record Locator Service (RLS) only shows those organizations that a patient has authorized (consented) to respond to queries. The method used to respond to a query will be a decision made at each individual organization.
- Comment: The consent process may need to disclose that some patient data meant to not be disclosed may be included in some payload from an EHR.

- The query/retrieve methods for Phase 2 services were reviewed. (Slide 12)
  - Cross-entity viewing from one EHR into another EHR. This approach is used by some MA healthcare organizations today using "magic button" technology which allows an authorized provider to view the record of a patient from another organization's EHR.
  - Push/Push offers email-like functionality and does not require new technical solutions. This method will necessitate a manual workflow process at either end of the transaction but does not require new standards definitions and leverages Meaningful Use Stage 2 requirements.
  - Query/Response is a query with automated response similar to current prescription history requests or patient eligibility checking. The challenges include that there are no national standards yet identified for this process. An incremental response may be the best method to keep objectives and outcomes aligned with standards that will emerge at a national level. Legacy standards wouldn't be best approach to address query/ response as the technology develops.
  - An option to add to this list is a manual response, to a specific query, which simply lists a telephone or fax number in order to contact the institution which has patient information to share. This could serve as an interim solution.
  - Comment: Criteria for access relies on the security features that must be in place and demonstrated for automated viewing of records to be allowed.
  - Comment: A category of 'user' should be added to authorized individuals who can access a patient's record.
  - Comment: Cross-organization viewing may occur now as there are agreements in place, such as shared credentials or other authorizations already in place.
  - Question: What about those organizations that have already stood up some sort of inter-connected repository/exchange of health records? What are options available to organizations? Are there different forms needed for each?
    - Discussion: The policy issues seem to emerge as the HIway phases develop. Emerging technologies/organizations, such as PVIX (Pioneer Valley Information Exchange), are assuming all legal/technical requirements to join the HIway. The Mass HIway is technology agnostic. There are a number of process issues in these circumstances yet to be addressed, including who is querying and who is responsible for responding to a specific query.
  - Comment: Will there be separate use cases developed for phase 2 services? The HIE does not care whether data is structured or not; the use of data will be addressed at the organization receiving that data.
- The steps to locate a patient's record could be initially separated from the action to request and retrieve the record. This division could allow organizations to identify their best solution to

respond to a record request/retrieve and for processes and standards to emerge. An emergency department request for patient data can be identified as an emergency release of patient data regardless of permission to view the data (consent). (Slide 13)
    - Discussion: What is a provider knows that another organization has records on a patient, but that organization denies access. Some HIEs have set policies that require organizations to respond, but also grants the organization to ask the querying party why they are requesting access.
- The group reviewed the specific questions included in the meeting materials. In general, the approach to Phase 2 appears to be reasonable and achievable. All agreed there are many issues to address. Specific questions and issues are noted at the beginning of these minutes. (Slide 16)
    - Comment: The query/response development needs to follow any developing standards at the national level. The HIway's incremental response may be the best method to keep objectives and outcomes aligned with standards that will emerge at a national level. Legacy standards wouldn't be best approach to address query/ response as the technology develops.
    - Question: How much of a burden per organization and what is the effort needed to get patient records, if HL7 is a standard message format, to a statewide MPI?
        - Discussion: Many EHRs do not capture consent as part of their HL7 message, which would require coding from the vendor with likely charges per organization/practice. The more barriers that are encountered, the harder it becomes for any organization, especially the small practices, to meet that criteria.
    - Question: What does the HIE do with patient records where a patient says 'no' or if there is no expressed consent decision? Does the HL7 message with the patient's demographic data flow to the center? Are organizations are to filter out these messages?
        - Discussion: This creates an additional barrier that any organization (especially smaller) may baulk at doing. What about patient lists from organizations that indicate the type of treatment given to a patient (such as McLean, Dana Farber, etc)?
    - Comment: The issues of resolving multiples of patient demographic data must be addressed, as de-duplication of patient records will need to occur at both the statewide database and the organization supplying the original data. Some HIEs (Maine was mentioned) actually sells the cleaned up patient name database back to the originating organization. And where a patient has not consented to the HIway, does this enforce the concept that this patient's HL7 record must be deleted at the center?

Next Steps

- Key points and recommendations will be synthesized and provided back to Advisory Group for final comments.
- Presentation materials and meeting notes will be posted to EOHHS website.
- A poll will be generated via email to determine a regular meeting time for the Advisory Group.
- The next HIT Council – March 13, 2013, 3:30-5:00 One Ashburton Place, 11th Floor, Matta Conference Room